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ABSTRACT

This paper examines the means by which the National Archives and Records Administration (NARA) preserves historically valuable documents while still making them available to those who initially created them. The paper compares the policies for handling requests for access by donors of material and procedures for accessioned records among the three offices that have physical custody of permanent records: the Office of Presidential Libraries, the Office of the National Archives, and the Office of Federal Records Centers. A number of instances in which loaned records have been lost are cited, including U.S. Army records from the Vietnam War. The paper concludes by proposing revisions of the procedures for records requests. Sample forms are attached, including a routing and transmittal slip, a loan slip, a reference request form, routing slips, and return request slips. (MAB)

PRESERVING THE RECORD: FEDERAL AGENCIES AND NARA REFERENCE PRACTICES

A Paper Submitted to the NARA Training Committee in Partial Fulfillment of the National Archives GS-9 CIDS Training Requirements

> SUSAN HUVER KARREN June 9, 1989

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proper documentation of the activities of that agency.³ It is also apparent when reading such legislation, that the National Archives was not established merely for the purpose of "squirreling away" documents in a musty old building. Rather, it was assumed by Congress that these records would be used by the creating agency and others, including the public, and provisions were made for such use.⁴

Summed up, the mission of the National Archives and Records Administration (NARA), as it came to be defined through legislation, was to preserve and make available the Federal records of enduring and permanent value. How this mission was to be accomplished was left to the discretion of the Archivist of the United States.⁵

It is not the purpose of this paper to discuss the variety of means by which the National Archives has accomplished this mission over the past fifty-five years. Rather, this paper is designed to look at one small aspect of that mission; specifically, I wish to examine the means by which the Archives currently preserves historically valuable documents while still making them available to those who initially created them.



³Federal Records Act of 1950 (September 5, 1950) (64 Stat. 583-591, sec 506).

⁴Federal Records Act of 1950 (September 5, 1950) (64 Stat. 583-591, sec. 507).

⁵44 USC 2104(A) AND 44 USC 2904(a).

PRESERVING THE RECORD: FEDERAL AGENCIES AND NARA REFERENCE PRACTICES

On June 19, 1934, the United States Congress, after years of pressure from outside interest groups, established the National Archives of the United States. Congress did not, however, specifically define the mission of the newly-created agency, nor did it specify how the mission was to be carried out. Rather, it merely stated that "all archives or records belonging to the Government of the United States (legislative, executive, judicial, and other) shall be under the charge and superintendence of the Archivist . . . :

He shall have full power to . . . requisition for transfer to the National Archives "stablishment such archives, or records . . . approve[d] for transfer, and he shall have authority to make regulations for the arrangement, custody, use, and withdrawal of material deposited in the National Archives Building."

Although the mission of the Archives was left unspecified, perhaps deliberately so, ensuing legislation made clear that at least in part this mission involved the preservation of any records which served as "evidence of the organization, functions, policies, decisions, procedures, operations and other activities of the Government" or which contained informational data of value.² In this vein, later legislation required that the heads of Federal agencies ensure the preservation of records containing adequate and



¹48 Stat. 1122-1124, sec.3.

²An Act to provide for the Disposal of Certain Records of the U.S. Government (July 7, 1943) (57 Stat. 380-383).

In the current organization of the National Archives, there are three offices which have physical custody of permanent records. They are the Office of Presidential Libraries, the Office of the National Archives, and the Office of Federal Records Centers. Each of these Offices has custody of records in differing states of legal custody and each has developed regulations under which the creators of records may gain access to them. Because of the nature of the records held by the Office of Presidential Libraries (NL), the "regulations" for handling requests for access by donors of material is perhaps the most straightforward. The deed of gift, which transfers legal custody of personal papers to the National Archives, is the governing document by which requests are processed. The sample deed gift provided to A prospective donors states "that at any time after delivery . . . the Donor shall be permitted freely to examine any of the Materials during the regular working hours of the depository where they are preserved."6 It is not the policy of NL to return or lend papers to the donor once they have been deposited in a library under a signed deed of gift. However, when circumstances warrant it, copies of the requested documents have been sent to the donor. Because the material is donated by a private party rather than accessioned from a federal agency, NL is in the enviable position of having a simple, no-exceptions policy which ensures that the collection will remain as complete as it was when NARA assumed physical and legal custody.

⁶See sample Deed of Gift, para. 3. Office of Presidential Libraries.

Such is not the case with records held by the Office of the National Archives (NN) or by the Office of Federal Records Centers (NC). Although the Archivist may have the power to do so, it would not necessarily be desirable for either office to institute the policies and procedures in force in NL. To do so would incite full-scale revolt among the Federal agencies NARA serves. At a minimum, the numbers of records offered to the Archives for permanent accessioning would slow to a trickle and satellite agency archives would spring up overnight. Instead, procedures have been developed which balance the access needs of the various Federal agencies with the goal of the National Archives to preserve the documentary record of the Federal government. The extent to which physical access to the records by the creating agency is restricted is determined by the legal status of the records.

Records for which a Request for Transfer (Standard Form 258) has been signed are considered to be accessioned by NN and are legally and, in most cases, physically in the custody of that office. Records transferred to a Federal records center using a Records Transmittal and Receipt (SF 135) but which do not have a signed SF 258 are merely in the physical custody of NARA. Specific procedures have been written and incorporated into NARA regulations to govern loan requests relating to both types records.



The procedures governing accessioned records can be found in the Draft NN Handbook, Chapter 1, part 6.7 As stated in paragraph 96 of the Handbook, "permission to borrow is limited to instances of demonstrated need and subject to conditions which exempt from loan records of high intrinsic value or records in need of preservation action."8 Loans are considered only in cases where the request is made by a court clerk or by an agency records management official. Additionally, it must be demonstrated that the need for such a loan could not be satisfied by review of the requested documents and that the need of the Federal agency outweighs the public's right to access. If, after consideration of the above, the loan request is approved then the National Archives follows a lengthy set of procedures to ensure that the records are not physically endangered by the loan and that the records are returned to the National Archives in the condition in which they were received. The length of the loan period is closely regulated. Prior to transfer to the requesting party, a label is placed on the containers holding the records stating that the records are part of the National Archives and that they must be protected from damage or loss.9 Accompanying the records is a transmittal letter which details the care which the records must receive. If the records



⁷Draft NN Handbook, Chapter 1, section 6, pp. 6-41 through 6-51.

⁸Draft <u>NN Handbook</u>, section 6, para. 96.

⁹Draft <u>NN Handbook</u>, Loan Tag, Figure 6-9, pp. 6-45.

are not returned by the pre-determined due date, appropriate procedures are in place to ensure their recovery. Agencies are made aware that future loan privilege may be jeopardized in cases where loaned records are returned in a damaged state.

Unfortunately, the above procedures have not solved all problems relating to loaned records. The history of the National Archives is checkered with instances in which loaned records were not returned. The procedures do, however, provide the National Archives with the means for dealing with such problems and offer some leverage over agencies which abuse their privileges.

Such is not the case when one examines the procedures in place in NC which operates Federal Records Centers as interim storage facilities for the records of Federal agencies. Thought no fault of their own, the procedures currently followed do not necessarily protect the permanent records stored in records center facilities. An overview of these procedures coupled with an examination of how they affect one group of recently accessioned records which had been stored in a records center, will serve to show what problems have arisen.

According to the Washington National Records Center (WNRC) <u>Procedures Manual</u>, Chapter 11, all reference requests from agencies must be made by personnel authorized by the agency records officer to request and to pick-up records. This does not differ from NN practice but it is here that NN and NC procedures part company. The method of requesting records from NC is simple. The requesting official submits a completed Optional Form 11 (OF 11) to the reference branch which then processes the request, usually within twenty-four hours. A completed OF 11 must contain the accession and box numbers and stack location of the material requested as well as the



name, mailing address and telephone number of the requester. This three-copy form is then given to a reference staff member who locates the material; he or she places the hard (third) copy of the OF 11 in the box, or, if an entire box is requested, on the shelf. The remaining two copies are attached to the records. If an agency courier picks up the material, NC retains the second (pink) copy until the material is returned to the center regardless of what material is requested. If the records are sent by registered mail, as in the case of classified records, NC retains the second copy until the mailroom ("back unit") receives the U.S. Postal Service's receipt card indicating that the records were delivered after which the copy of the OF 11 is disposed of whether or not the records have been returned. Only the postal card is retained until the records are returned. In all other cases, both copies of the OF 11 are returned with the records. When material is returned, it is refiled according to the information found on the copy of the OF 11 which is supposed to remain attached to the records.

These procedures reflect the fact that, although NARA has physical custody of the records, legal custody remains with the agency. NARA cannot refuse to service a reference request nor can NC establish criteria similar to the NN procedures which must be met before material will be shipped to the agency. The records belong to the agency and must be returned to them on an on-demand basis whether they are scheduled as temporary, as in the case of a Treasury check, or permanent, as in the case of Army Organizational History Files.

In theory, the procedures in place in NC adequately provide for efficient reference service and ensure that returned records will be refiled in their appropriate places. An examination of one group of recently accessioned records will show that, in fact, while



the system may provide efficient reference service to the agencies, it does not adequately safeguard records which have been appraised and scheduled as permanent. In light of the experience with the Records of the U.S. Army, Vietnam (RG 472), it may be necessary to reexamine the procedures which govern agency reference requests in the records centers as they relate to permanent records and to institute new procedures which will more adequately protect those records.

In the early 1960's, records concerning U.S. Army activities in Southeast Asia were shipped to the Records Holding Area at Fort Buckner, Ryukus Islands. Still others were shipped directly to the Army's Center for Military History (CMH) in Washington, D.C. or to other Army bases across the country. Although it remains unclear exactly where all of these records eventually ended up, as early as 1967, some of them had been accessioned by the Washington National Records Center (WNRC) in Suitland, Maryland. As various elements of the U.S. Army attempted to analyze, evaluate and, in the case of the Center for Military History, document the war in Southeast Asia, these records were retrieved from WNRC time and time again. As the war progressed, more records were shipped to WNRC and the numbers of records retrieved for further evaluation escalated. Reference requests did not abate as the war ended but, instead, continued to increase as Army historians attempted to piece together the Vietnam history of a variety of units.

Additionally, public pressure forced the Army to institute programs designed to evaluate the war from the perspective of the participants and to make the operational records of the myriad of units which served in Vietnam open to the public. In 1980, the Army set up its Southeast Asia War Records Declassification Project (SEAWARDEP) to



review the Army's operational records (division level and lower) and to declassify those which were eligible. After review, virtually all of these records were opened to the public. At the same time, a second Army group, the Environmental Support Group (ESG) was established to study the use of herbicides and defoliants (commonly referred to as Agent Orange) in Vietnam and to ascertain, if possible, when and where they were used. As part of a joint Archives/SEAWARDEP agreement, space in WNRC was provided in which to carry out the review and reboxing project. ESG, however, operated out of a K Street address in Washington, D.C. To complete their project, it was necessary for them to request hundreds of boxes of permanent records from the records center and from SEAWARDEP. These requests were handled no differently from any other agency request.

In April 1987, the Office of the National Archives permanently accessioned approximately 29,000 cubic feet of U.S. Army records relating to the Vietnam War. In part, allocated to the newly formed Records of the U.S. Army, Vietnam (RG 472), they contained material from the Records of the Army Staff (RG 319), Records of Interservice Agencies (RG 334), and Records of U.S. Army Commands (RG 338). The number of WNRC accession which made up this one large accession has never been calculated, indeed, individual accessions still are being located. It can be estimated, however, that they may number in the thousands. (There were nearly two hundred accessions for just the 275 cubic feet which covered the 23rd Infantry Division.)

NARA began processing this material immediately and, as it progressed beyond that material initially processed and reboxed by SEAWARDEP, it became apparent that large gaps existed in the records. For example, the 173rd Airborne Brigade served in Vietnam from May 1965, to August 1971.



Currently, only eighteen feet of records, most dating from 1968, have been located for this unit.

Through no fault of the reference staff at WNRC, many files and, in some cases, entire boxes were never returned to their original accessions. These gaps have seriously hampered attempts by NN staff to gain intellectual control over the records and sometimes prevent the NN reference staff from providing the public with the information they request.

It is possible that some of these gaps exist because of the wartime conditions under which the records were created. It is impossible, however, to conclusively establish which records were destroyed in Vietnam and which have since been misplaced during the reference process. Currently, WNRC procedures do not provide any way of determining what records of a given records group are on loan at any particular moment. In fact, in April 1987, it was necessary for the Archivist of the Army John Henry Hatcher to write a memo informing the Commander, U.S. Army Military Personnel Center, the Director, Joint Environmental Support Group, and the Chief, U.S. Army Center for Military History that the Vietnam War Collection had been formally accessioned by the National Archives and requesting that "all holders of any loaned material from the Collection. . . prepare inventories of their holdings" and note when these materials might be returned. ¹⁰



¹⁰See Hatcher memo, Subject: Accessioning of the Vietnam War Collection into the National Archives of the United States, 28 April 1987.

The return of large bodies of loaned material has not proceeded smoothly. As late as December 1987, ESG had not returned all of the material on loan to it prior to accessioning. A letter to ESG in that month indicated that should the outstanding eighty boxes of records not be returned promptly, future loan privileges, which now came under NN procedures, might be jeopardized.¹¹ In addition to being forced to rely on agency-generated lists concerning what loaned material was in agency custody, the National Archives has had to deal with agency representatives who were less than eager to return the materials in their custody.

As processing progressed, staff members of the Vietnam Project collected the charge out cards found on the shelves and in the boxes. When the staff completes the processing of the records for a military unit or accession, letters stating that the records are now in the legal custody of the National Archives and that their return is requested are sent along with copies of the OF 11's to the head of the organization listed on the OF 11. To date, this practice has produced little result.

As an example, by the completion of the processing of Accession 338-72A7128, U.S. Army Vietnam Historians' Files, twelve OF 11's had been found, the oldest of which was dated October 5, 1972. These loan requests accounted for four entire FRC boxes and fifteen folders out of a total of 47 cubic feet. One box and two folders were charged out to unidentified persons; two folders were charged out to the U.S. Army Signal Center,



¹¹See letter, Dr. Garry Ryan, Director, Military Archives Division, National Archives, to Mr. Richard S. Christian, Director, U.S. Army Joint Services Environmental Support Group, 3 December 1987.

Ft. Gordon, Georgia; one folder was charged out to the U.S. Army Armor School, Ft. Knox, Kentucky; and three boxes and ten folders were charged out to the U.S. Army Center for Military History, Washington, D.C. As of this writing, there has been no action on NARA's requests for return of these records.

During the processing of accession 334-74-0010, thirteen OF 11's were located. Barely legible, these charge out cards, all signed by V. Demma of CMH, dated from 1977 and represented over seventy documents. These documents have never been returned and as a result, holes exist in this important collection of Military Assistance Command, Vietnam (MACV) J-2 (Intelligence) material.

This is not an isolated incident. With each new accession, OF 11's are found among the records. Missing boxes, with or without an OF 11 to mark their places, are not uncommon.

In some cases, records have been returned to the WNRC but in such a manner as to prevent refiling in their original series. This includes the return of records without OF 11's. (See Appendix A) Many records have been incorporated in historian's background files and sent to the WNRC as a Center for Military History accession under RG 319. Over forty feet of 1st Signal Corps records were retired in just such a manner. Their presence in a CMH accession was noted during a survey of SF 135's for RG 319. Those records will have to be interfiled in their appropriate place, a very time-consuming process.

Over seventy-five percent of the records for the 5th Special Forces Group (Airborne) were found in CMH accessions. Because the original order of the documents



was destroyed (and in many cases, the original folders, as well) and because there was no acceptable (or even apparent) arrangement scheme to these documents, it was necessary to arrange and describe over 150 feet of records on the document level. Additionally, it has become evident that not only were Army historical agencies using these records for a variety of histories and studies but that these records were also lent to private "think tanks" contracted to provide additional studies. Accession No. 319-67A5216 contained twenty-nine cubic feet of records. When transferred to NN, three feet were missing with no charge-out cards. Space for the missing boxes was left on the shelves. At some point after accessioning, missing boxes 6 and 28 were returned to WNRC staff who shelved them in their former location rather than sending them to NN. Box 26 remains unaccounted for. Taped to the tops of boxes 21-27 are sheets of paper bearing the letterhead of Research Analysis Corporation and noting that the lending agency was CMH. These "charge slips" note that "this document is on loan from Federal Records Center, GSA, and must be returned on _______ (See Appendix B) Compounding the problem is the fact that no SF 135 can be found for this accession. Without that documentation, the contents of the missing box cannot be determined.

In 1988, the Center for Military History returned twenty pallets (over 430 feet) of archives boxes marked "Historian's Source Materials Files, Medical Records Collection" with no folder or box list. Ranging in date from pre-WWI through Vietnam, these boxes contain a variety of material. It is unclear whether these are records which have never been in the record center or ones which were requested from a variety of accessions and are now being returned jointly. As the result of a Freedom of Information request, it was discovered that the only copy of the debriefing report of Col. George C. Morton,



first commander of the 5th Special Forces in Vietnam, had been charged out to the Center for Military History in May 1976. When the Center was contacted regarding its return, they were unable to locate this crucial document. They surmised, however, that the report may have been interfiled in this four hundred foot accession. Shelby Stanton, author and historian, confirmed that when researching his definitive work on the Special Forces in Vietnam, he was forced to use copy number one of the report from Col. Morton's personal papers as he was unable to locate any copy in Federal custody.

As can be seen from the experience of the Vietnam Project, NC reference procedures efficiently served the federal community but failed to safeguard against the loss or alienation of important historical documents. If the National Archives is to fulfill its mission of preserving the permanent records of the Federal Government, then closer attention needs to be paid to this issue. A few procedural changes, well within the legal authority of the National Archives, may solve this problem.

Currently, NC regulations require that any material sent to a records center for storage must be scheduled as either permanent or temporary with appropriate disposal dates. NARA can use this information to its advantage in formulating new procedures which will prevent the further alienation of permanent records from their proper series while still maintaining efficient reference service.

Revised procedures might consist of the following. A revised OF 11 would include a space which asks if the requested records are temporary or permanent; the form would consist of four rather than three copies. (See Appendix C) Unscheduled records would be treated as permanent. For records scheduled as temporary, the NC



reference branch would follow the procedures currently in place.¹² Only permanent records would be subjected to the revised procedures.

The revised procedures would reflect the importance NARA places upon the permanent records of the Federal Government but, as with other NARA regulations affecting permanent records not yet in legal custody, would not affect agency usage of those records.

If the requested records are permanent, the NC reference staff would take several extra steps prior to returning the records to the creating agency. First, the box or folder containing the records would be stamped in large letters and red ink with the following: "THESE RECORDS HAVE BEEN SCHEDULED FOR PERMANENT RETENTION BY THE NATIONAL ARCHIVES AND MUST BE RETURNED IN THIS CONTAINER TO ACCESSION NO. ______ BOX NO. _____ WHEN NO LONGER NEEDED FOR CURRENT AGENCY USE." This would alert the requesting agency that the records are not to be incorporated into existing agency files, particularly temporary files, and that the records should be returned to the records center when no longer needed for current agency use. If, in spite of this warning, the records were incorporated into another



¹²This presupposes that the records have been scheduled correctly. Unfortunately, past experience has shown that this is not necessarily so.

¹³ It appears that at one time a similarly stamp was in use at the Federal Records Center, Alexandria, Virginia. For an example, see Appendix D.

accession, their appropriate place would be obvious to the processing archivist who could then choose either to return them to their proper place or to cross reference the records.

Second, a transmittal letter would be sent with the records. Patterned after the transmittal letter currently in use by NN, this letter would put the requesting party of notice that he or she is responsible for the proper care and ultimate return of the records. Additionally, it would note that the records should not be refoldered or reboxed without contacting NARA. Finally, the permanency of the records and the need for their return would be stressed. It might be suggested that if the agency will have need of these records for a lengthy period, or if it is likely that the records will be incorporated into a new file, that copies be made and the originals returned.

Third, the fourth copy of the OF 11 would be retained by the reference staff in a "tickler file" arranged by accession number. Should the remaining records be moved, these copies would be annotated to reflect the new location. When the records are returned, this copy would be removed from the file. Any outstanding OF 11's would be turned over to NN at the time of accessioning. On a routine basis (perhaps semi-annually) the staff would send out letters for records which have been on loan for more than six months reminding the requesting agency that these



¹⁴This would ensure that, should the records need to be reboxed or refoldered for preservation purposes (the only reason for which such an action would be allowed), the information found on the current boxes or folders would be preserved.

records are on loan and that they should be returned if that office has no further use for them. (See Appendix E) It may be desirable for the agency's records officer to receive information copies of these letters so that they are aware of what loaned records the agency has in its custody. The agency would be requested to return an enclosed card should the office either no longer have the records (i.e. they are in the custody of another office¹⁵ or have already been returned) or should the office continue to need the records. (See Appendix F) Copies of the letter and the returned card would be attached to the OF 11.

This procedure would serve several purposes. First, by sending the letters, memories might be "jogged". It is highly possible that some records are never returned because they are forgotten in the daily crush of business. Second, it would provide a means of checking that returned records are properly shelved and that paperwork is kept up to date. Third, should records remain charged out for long periods, it provides a means for ensuring that the agency is aware that they have these records and would provide a paper trail that would attest to that fact. Fourth, it provides an additional set of OF 11's should those placed on the shelves be lost. And finally, it immediately provides the accessioning archivist with a listing of the records on loan in a specific accession without requiring that the accession be fully processed. Since some accessions

¹⁵NARA may wish to institute a policy which states that records lent to an agency may not be transferred between offices or, alternately, that written notification of such a transfer be sent along with a new OF 11 to the records center.

do not immediately receive holdings maintenance attention (the point at which most outstanding OF 11's are found), this would enable NN to start the retrieval process sooner.

These would not be the first regulations promulgated by NARA which regulated the use of permanent records not yet in the legal custody of NARA. Under 36 CFR 1232.4, NARA regulations specify the conditions under which permanent and unscheduled audio-visual records must be stored. Additionally, regulations for maintenance and operations and for formats are covered. 36 CFR 1234 lists similar regulations for ADP records management. It would not be unreasonable to assume that current legislation allows the National Archives to establish regulations which would similarly protect permanent and unscheduled textual records not yet in legal custody.

Other options exist for reducing the chances of misplacing permanent records. NARA may wish to examine the feasibility of offering agencies the option of receiving copies of needed documents on an at-cost basis in lieu of the originals if small amounts are involved. If the records centers can assure rapid turnover, a service such as this could reduce the numbers of permanent documents on loan, reduce the numbers of individual interfiles which must be performed at a later date, and remove from the agencies the burden of tracking loaned records.

The historical records which the National Archives receives are not perfect. The Archives can, however, make every effort to ensure that the imperfect record of our past is not further made more so once it comes into the physical custody of NARA.



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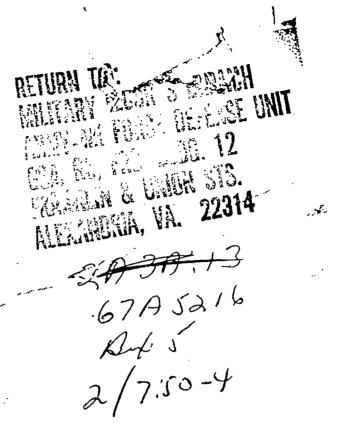
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APPENDIX E

Dear:
Our records show that on, your office requested
, Accession No, box As these
records have been scheduled as permanent retention by the National Archives, we
request that, should your office no longer have need for them, these records be returned
to so they may be refiled in their proper place. If these records are
still needed for current agency business, or should these records no longer be in your
custody, we request that you return the enclosed card.
If you have any questions concerning this matter, please call
Sincerely.



APPENDIX F

The follow	wing records:	<u> </u>	, Accession No
	, box		
	Are still in use by this office.		
	Were sent to	on	and are
	In the custody of that office.		
	Were returned to the records center	on	
•			
			
Agency C	Official and Title		
Telephone	e Number		
•			
Date			

